

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION-RIVERSIDE

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HONORABLE JESUS G. BERNAL, DISTRICT JUDGE PRESIDING

— — —

REPORTER'S TRANSCRIPT OF MOTION PROCEEDINGS

Riverside, California

Monday, October 21, 2024

3:13 p.m.

22 PHYLLIS A. PRESTON, CSR, FCRR
23 Federal Official Court Reporter
24 United States District Court
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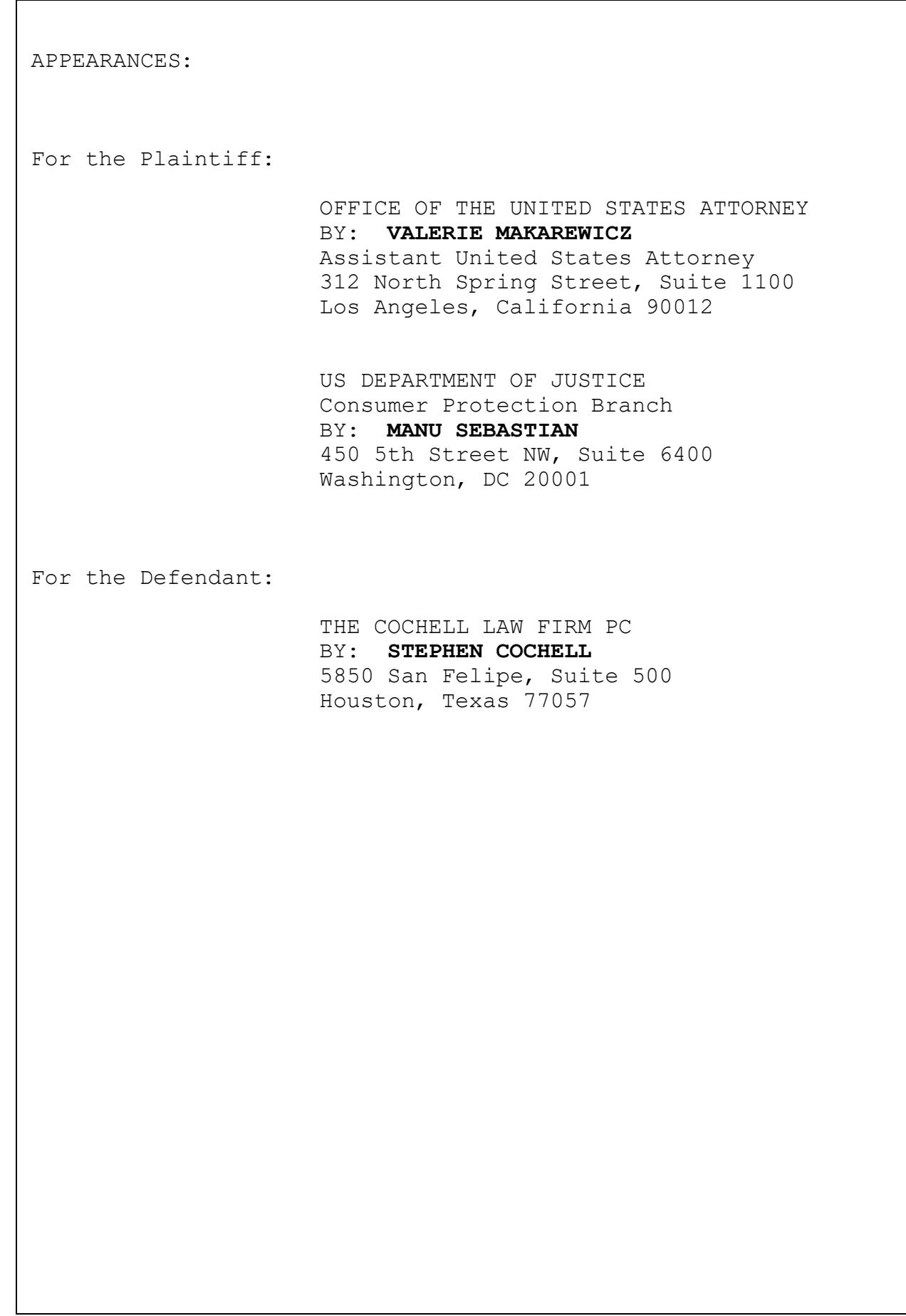
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1 MONDAY, OCTOBER 21, 2024; RIVERSIDE, CALIFORNIA

2 -000-

3 THE CLERK: Calling Item 9, Case No. EDCR 23-21-JGB,
4 United States of America v. Jason Edward Thomas Cardiff.

5 Counsel, please make your appearances. 03:13

6 MS. MAKAREWICZ: Good afternoon, Your Honor.

7 Assistant United States Attorney Valerie Makarewicz on behalf
8 of the Government.

9 MR. SEBASTIAN: Good afternoon, Your Honor. Manu
10 Sebastian with the Department of Justice. 03:13

11 THE COURT: Good afternoon.

12 MR. COCHELL: Good afternoon, Your Honor. Stephen
13 Cochell appearing on behalf of defendant Jason Cardiff.

14 THE COURT: Good afternoon.

15 The matter is on calendar for a couple of items. One 03:13
16 is a motion filed with the defendant seeking to dismiss of --
17 dismissal of Count 2 of the Indictment based on recent Supreme
18 Court authority, and the second is a motion to suppress
19 evidence. So let's deal with it a little bit backwards.

20 As to the motion to suppress, counsel, you don't 03:14
21 intend to call any witnesses pursuant to the motion to
22 suppress; is that correct?

23 MR. COCHELL: No, Your Honor.

24 THE COURT: Very well. All right. So let's deal
25 with the motion to dismiss. My preliminary but probably pretty 03:14

1 strong feeling is that the recent Supreme Court decision did
2 not really change fundamentally the analysis that's to take
3 place in this case regarding whether or not the charge of
4 aggravated identity theft is proper and under the facts alleged
5 in the Indictment. But you may make your record if you wish. 03:15

6 MR. COCHELL: Well, there's an expression about don't
7 hail a man if he's coming towards you. I will reserve for any
8 comments by the Government, Your Honor.

9 THE COURT: Okay. Any comments by the Government?

10 MS. MAKAREWICZ: I have a different saying but about 03:15
11 the same, Your Honor. The Government fully believes that this
12 is a garden-variety identity theft case and that the --

13 THE COURT: It's not so garden, but I see what you
14 mean. I mean, the garden-variety is somebody steals somebody's
15 mail and then uses a credit card or to get a Social Security 03:15
16 number to get some meth and they steal the identity. That's
17 garden variety. This is separated from that.

18 MS. MAKAREWICZ: Understood, Your Honor. Major
19 frauds might be a little bit -- garden-variety might be
20 different in major frauds than it might be in general crimes. 03:16
21 But, of course, the Court is familiar that *Dubin* held when the
22 means of identification itself is used to defraud or deceive,
23 that is squarely within the aggravated identity theft.

24 The small points the Government wants to make is
25 here: Defendant exceeded his authorization. The period of time 03:16

1 for which the Government has charged, as the defendant has
2 agreed to for purposes of this motion, meant that customers who
3 were previous solo personal sale, one-time only sale had their
4 identities, credit card, and debit card used in order to start
5 a brand new transaction.

03:16

6 The Court in *Dubin* uses a great analogy of steak with
7 somebody being charged for a flank steak versus a filet mignon.
8 Here we have a matter that a person walks into a restaurant,
9 orders any kind of steak, leaves the restaurant, and a year
10 later gets a shipment of chicken without any indication that
11 they wanted to continue this. Same idea here, Your Honor. The
12 customers had one-time solo instances in which they engaged
13 with the defendant for a product. They did not choose to have
14 them reordered or continuity plans reinstated and then up to a
15 year later had their cards charged and utilized for products
16 that they didn't order originally and on a continuity plan that
17 they never agreed to.

03:17

18 So this is what the Government believes falls
19 squarely within *Dubin* and exceeds defendant's authorization,
20 and the matter should not be dismissed.

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21 THE COURT: Okay. So I don't know if I misspoke at
22 the beginning. So the proposed is to deny the motion to
23 dismiss. So that was the proposal. Maybe I misspoke.

24 MR. COCHELL: Okay.

25 THE COURT: Do you now wish to be heard?

03:18

1 MR. COCHELL: Yes, Your Honor.

2 MS. MAKAREWICZ: The Court again is -- its tentative
3 is to deny the motion if --

4 THE COURT: Right.

5 MS. MAKAREWICZ: -- I understand. Thank you, Your
6 Honor. 03:18

7 MR. COCHELL: I did misunderstand, Your Honor. Thank
8 you for affording me the opportunity to speak.

9 I have a few points to make. The *Dubin* case did
10 change the law, but the law in the Ninth Circuit was set out in 03:18
11 *U.S. v. Hong* in 2019. And *U.S. v. Hong*, just like the *Dubin*
12 case, talked about the fact that there needs to be an
13 impersonation of an identity. And in this case, Mr. Cardiff or
14 Redwood did not impersonate himself to his clients nor did he
15 take customer information and pretend to be his customers. No
16 third parties were deceived. This was strictly a situation
17 where -- 03:19

18 THE COURT: So the way I understand the facts of this
19 case, that these are customers which had previously made a
20 single purchase which was legit, and then sometime thereafter,
21 the defendant apparently used that information, including the
22 payment information, the name necessary to purchase anything
23 under the Internet, and consummated a second purchase without
24 the person's knowledge or consent. Is that what you understand
25 the facts to be as alleged? 03:19

1 MR. COCHELL: Yes, Your Honor. These are
2 pre-existing customers that bought a product, they received the
3 product, they were subsequently placed on continuity using the
4 same information --

5 THE COURT: So they bought the product initially, but 03:19
6 they never consented to a second purchase of any product,
7 correct? So it's that second purchase of a product in which
8 the defendant had to represent him or herself as having the
9 consent of the customer to purchase that product, otherwise,
10 that product would not be purchased under that name? 03:20

11 MR. COCHELL: But -- but when you look at it in a
12 different light --

13 THE COURT: Okay.

14 MR. COCHELL: -- take a look at Amazon and Netflix,
15 they have continuity programs and single-purchaser programs. 03:20
16 And -- and the problem that we have with this aggravated
17 identity theft situation is that, whether it's a mistake or
18 whether it's an intentional situation, when people are on
19 continuity and it's fully disclosed, as it was in this --

20 THE COURT: Are you alleging that its initial 03:20
21 purchase was a continuity contract?

22 MR. COCHELL: Many of them were.

23 THE COURT: Okay.

24 MR. COCHELL: Many of them were. This is a situation
25 of lost data, and the data was being replaced. 03:20

1 THE COURT: But many of them weren't by implication?

2 MR. COCHELL: Sir?

3 THE COURT: But many of them were not?

4 MR. COCHELL: Some of them may not have been.

5 THE COURT: Okay. So as to the ones that may not 03:21
6 have been, there were no additional obligations which the
7 customer undertook in the initial purchase and after that
8 initial purchase was completed. As to those people, do you
9 agree that there was, as alleged, aggravated identity theft?

10 MR. COCHELL: We would not, Your Honor. 03:21

11 THE COURT: Okay. Why?

12 MR. COCHELL: We think that the -- the situations
13 where there's been no impersonation or misrepresentation, the
14 who are still the who. It doesn't change. And the issue that
15 the Government is pressing is how the -- you know, or when. 03:21
16 When you get to the "how" or the "when" under *Dubin* and *Hong*,
17 you are no longer falling within the scope of the 1028A. And
18 for that reason, you know, it -- you know, there are many
19 situations where there could be mistakes made, as with a large
20 company as Amazon, and it's -- it could automatically be 03:22
21 deemed, you know -- you know, identity theft. And so under
22 these circumstances, the allegations don't fall outside the
23 *Dubin* ruling or the ruling in *Hong* because there's been no
24 impersonation, no assuming of identity, no misrepresentation of
25 identity. And so the crux of the offense is still, you know, 03:22

1 whether it went from single to continuity, the how and the when
2 are -- are not in the scope. They are not the crux. And so
3 under these circumstances, it does fall within the scope of
4 *Dubin and Hong*.

5 THE COURT: So you're saying your argument is because 03:22
6 that transaction that occurred was between the same two parties
7 as the original transaction and there's no third party
8 involved, there's no impersonation of identity to purchase an
9 additional product?

10 MR. COCHELL: No, there isn't. And the fact that -- 03:23
11 and this is unrebutted. The fact that the products are sent
12 immediately with a transaction receipt, a packing receipt, and
13 the number of a call that they can make to get a refund, under
14 those circumstances --

15 THE COURT: Yeah, I don't think that's -- 03:23

16 MR. COCHELL: -- it's still a visible and transparent 03:23
17 transaction.

18 THE COURT: I don't think that's material. The fact
19 that the product is sent immediately is not really material if
20 the initial purchase of the product is fraudulent. Any 03:23
21 response to that?

22 MS. MAKAREWICZ: Yes, Your Honor.

23 MR. COCHELL: Just one other comment, Your Honor.

24 THE COURT: I'm sorry. Go ahead, sir.

25 MR. COCHELL: So -- so the facts, as alleged, may 03:23

1 amount to billing fraud, but they don't amount to aggravated
2 identity theft.

3 THE COURT: I understand the distinction you're
4 trying to draw.

5 MR. COCHELL: Thank you.

6 MS. MAKAREWICZ: There was an impersonation. The
7 impersonation was that the defendant had the authorization of
8 clients to charge their card again. The impersonation was made
9 to the merchant processor, to their banks, to the CRM. That's
10 the impersonation. Those clients, as the Court has seen and
11 what the defendant has not -- he didn't answer your question.
12 The question was there were clients who did not authorize the
13 second, third, fourth charging of their account. They made one
14 purchase, they walked away from it, and then up to a year
15 later, this defendant stated to the CR -- the CRM, to their
16 banks, and to the processing companies that he got indication
17 from the customer to charge that card when he did not. That's
18 the impersonation. He exceeded his authorization.

19 THE COURT: Very well. So, I mean, I understand the
20 distinction that is trying to be made here. I still think that
21 the motion will be denied and I'll issue a written order
22 outlining my reasons.

23 Let's move on to the motion to suppress. I think
24 this -- you know, this whole thing sounds familiar. Obviously,
25 I've dealt with this issue before to the extent to which the

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1 receiver acted or did not act improperly. It just seems to
2 rehash the previous arguments. I'm not inclined to grant the
3 motion to suppress because in my view, even though there were
4 some acts by the receiver which the defendant did not like,
5 there's no instance in which I find the receiver exceeded his
6 authority. So you may make your record again. 03:25

7 MR. COCHELL: Thank you, Your Honor.

8 This was a case where, as Your Honor mentioned, the
9 USPIS had been investigating Mr. Cardiff for four months and
10 had ample cause to obtain a warrant, but they chose not to do
11 so. There was no urgency that could have justified bypassing
12 the warrant requirement, which is a fundamental bedrock
13 requirement of the Fourth Amendment. The failure to get a
14 warrant violated Mr. Cardiff's right. Addressing your concern
15 about the receiver -- 03:26

16 THE COURT: So assume that they had gotten a warrant,
17 right? And then they show up and the receiver is there and he
18 says *no, you can't come in. I have possessory interest of*
19 *these offices*, what would happen then?

20 MR. COCHELL: I'm sorry, I didn't quite hear the -- 03:26

21 THE COURT: They would obtain a warrant.

22 MR. COCHELL: Yes, Your Honor.

23 THE COURT: Okay. And you are searching his property
24 under the presumption that he has a privacy interest in the
25 property to be searched. They show up with a warrant. The 03:26

1 receiver comes out and says *wait, hold on*. He doesn't have any
2 possessory interest. The Court appointed me as the receiver of
3 these assets; therefore, your warrant isn't valid.

4 MR. COCHELL: Well, that's a --

5 THE COURT: The warrant is premised on the possessory 03:27
6 interest and the privacy interest of the defendant, of which he
7 has none according to the receiver.

8 MR. COCHELL: Well, with respect to getting a
9 warrant, we do think it was required. The -- the order itself,
10 the TRO -- 03:27

11 THE COURT: Who would the warrant say had possessory
12 interest of the places to be searched?

13 MR. COCHELL: I'm sorry?

14 THE COURT: Who would the warrant say had possessory
15 interest of the items to be searched? 03:27

16 MR. COCHELL: I think it would have said "Jason
17 Cardiff" or should have said "Jason Cardiff."

18 THE COURT: Even though a receiver had been appointed
19 and he had possessory interest?

20 MR. COCHELL: A receiver was appointed, he had 03:27
21 possessory interest --

22 THE COURT: Right.

23 MR. COCHELL: But in terms of the order itself, that
24 very detailed order did not allow the receiver to exercise
25 the -- the -- 03:28

1 THE COURT: The issue is --

2 MR. COCHELL: -- ability to waive --

3 THE COURT: The issue is --

4 MR. COCHELL: -- the constitutional rights.

5 THE COURT: -- not that; the issue is whether the 03:28
6 receiver had possessory interest.

7 MR. COCHELL: Well, but -- but Jason Cardiff also has
8 possessory interest.

9 THE COURT: If I have possessory interest of 03:28
10 something and you want possessory interest of something and
11 it's my possessory interest, I can say to you, *you know what?*
12 *It's my possession. You're not entitled to it.* Right? So the
13 receiver could have stood in front of the door and said *you're*
14 *not allowed in no matter what warrant you have because I have*
15 *possessory interest.* 03:28

16 MR. COCHELL: Right. That would -- that would be an
17 unusual situation --

18 THE COURT: It definitely would be an unusual --

19 MR. COCHELL: -- for a receiver. I would not advise
20 him to do that. 03:28

21 THE COURT: But I think it highlights the issue here,
22 which is that you say they should have gotten a warrant.

23 MR. COCHELL: Right.

24 THE COURT: I say if they got a warrant, what's the
25 legal validity and materiality of the warrant seeking to search 03:28

1 something for which the defendant has no possessory interest?

2 MR. COCHELL: Well, the Court did leave him with a
3 possessory interest. The -- the Court said he had full access
4 to the property, which he did exercise, and --

5 THE COURT: Okay. He can go in and take his
6 computers and take it home? 03:29

7 MR. COCHELL: I'm sorry?

8 THE COURT: He can go in, grab his computers, and
9 take them home?

10 MR. COCHELL: Well -- 03:29

11 THE COURT: He could not. He could not.

12 MR. COCHELL: I don't believe that any of that
13 happened hypothetically.

14 THE COURT: Right, right, but that highlights the
15 fact that he didn't have full access and possessory interest in
16 the property and the premises. 03:29

17 MR. COCHELL: Right. We -- we also contend that the
18 receivership order itself was void ab initio. In *AMG v. FTC*,
19 the court -- a unanimous court held that there was never any
20 authority, Congress never intended that -- that the FTC have
21 the opportunity or right to seek monetary relief, i.e., an
22 asset receivership. Pretty strong stuff from the Supreme
23 Court. And when you go into the analysis that they engaged in,
24 they found that the -- and particularly Justice Breyer, they
25 were very concerned that the FTC had upset the legislative 03:30

1 balance of Congress and that at the time -- and here's the
2 conundrum here from -- from our perspective. At the time his
3 actions were void ab initio. The Virginia Tax Board case shows
4 that that's retroactive to all pending cases at the time. And
5 with respect to the TRO, all it said was that Section 13(b) 03:30
6 is -- is the source of authority by the Court. Once you throw
7 out that source of authority, then there's -- everything else
8 is null and void. And so to the extent that you have an order
9 that's void ab initio, any enforcement action that takes place
10 in the context of that order at that time is similarly null and 03:31
11 void.

12 And so we would respectfully submit that under the --
13 to change your hypothetical, if there was going to be a search
14 warrant, it should have been directed to Jason Cardiff as
15 president/CEO of Redwood Scientific. 03:31

16 THE COURT: Thank you.

17 Any response to the argument?

18 MR. COCHELL: If I could also --

19 THE COURT: Be brief, sir.

20 MR. COCHELL: Yes, sir. The -- and so what we have 03:31
21 is the order itself didn't specifically talk about waiver of
22 constitutional rights. We think it was vague and ambiguous in
23 that regard. And because you have very detailed orders --

24 THE COURT: The order appointing a receiver would
25 discuss the constitutional rights of the person who owns the 03:31

1 assets to be put in receivership?

2 MR. COCHELL: Yes, where he talks about the -- the
3 access to the property and -- and the fact that --

4 THE COURT: Those are necessary functions of the
5 receiver. How is the receiver to do his or her job if they
6 don't have access to the property? 03:32

7 MR. COCHELL: But we would respectfully submit it's
8 improper for a court to delegate constitutional -- the right to
9 determine constitutional rights to a receiver, particularly on
10 the first day that they walk in the door. 03:32

11 THE COURT: Well, I mean, then --

12 MR. COCHELL: That doesn't seem proper.

13 THE COURT: -- why not abolish receiverships at all
14 in general? I mean, that happens in every receivership. Every
15 receiver has access to the assets which are placed on the
16 receivership. 03:32

17 MR. COCHELL: But -- but when you talk --

18 THE COURT: That's what it means.

19 MR. COCHELL: But in terms of a fundamental right,
20 the right against search and seizure, you know, those are
21 rights that are typically determined by a U.S. magistrate or
22 judge when a search warrant is -- is obtained. 03:32

23 THE COURT: They're not determined when they say to a
24 receiver *go and take those assets or take possession of those*
25 *assets.* It's not a constitutional analysis of the defendant's 03:33

1 rights; it's the rights of the debtors or the court to manage
2 its docket and appoint a receiver to handle those assets.

3 Anyway, I understand your --

4 MR. COCHELL: Yes, Your Honor.

5 THE COURT: I understand.

6 MR. COCHELL: Just two or three more points. The
7 Ninth Circuit decision in *U.S. v. Anderson* decided several
8 months ago, it took place in the context of inventory searches,
9 but it also covers the kind of administrative search and
10 inventory that the receiver was embarked on on October 12th of

11 2018. And in that particular decision, it's made very clear
12 that it is bad faith misconduct potentially for a government
13 agent to bypass the proper procedures or ignore them. And in
14 the instant case, we have a situation where the -- the receiver
15 really was -- didn't grant consent on October 12th. There is
16 hearsay about it. We have a government agent, Mr. Hedrick, who
17 submitted a declaration that --

18 THE COURT: You say "didn't grant consent." You say
19 "didn't grant consent" to the --

20 MR. COCHELL: They didn't grant consent.

21 THE COURT: To who?

22 MR. COCHELL: To -- to the USPIS to come in and
23 conduct a criminal investigation. This is clear pretext.

24 THE COURT: So you're drawing a distinction between
25 "consent" and "allowed"? He knew they were there.

03:33

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03:34

1 MR. COCHELL: Yeah, but he didn't know why they were
2 there. There's no evidence whatsoever, admissible evidence to
3 show that he knew that they were there to conduct a criminal
4 search. None. And we've submitted detailed notes by him.
5 We've -- we've -- there's absolutely not one shred of evidence
6 that he ever had contact with USPIS prior to this. This agent,
7 Mr. Hedrick, in a very conclusory two-page declaration, which
8 is not -- he doesn't state he has personal knowledge. All he
9 says is that he attended a meeting --

10 | THE COURT: He knew they were USPIS, right?

11 | MR. COCHELL: I'm sorry?

12 THE COURT: He knew that they were investigative
13 personnel, correct?

14 MR. COCHELL: No. I think he -- what he thought --

15 THE COURT: Who did he think they were?

16 MR. COCHELL: He was -- he was tricked into thinking
17 that they were there just to help keep the peace.

18 THE COURT: But who did he think they were? I'm not
19 talking about their function; I'm talking about their identity.

20 MR. COCHELL: Yeah, I can't -- I can't say what he
21 actually knew at the time. We have no declaration from him a
22 to what he knew and when he knew it.

23 THE COURT: On one side you say he was duped, so that
24 implies that he did know something; now you say you can't tell
25 what he knew or didn't know.

1 MR. COCHELL: I'm saying he was duped because there's
2 no -- it's their burden to show consent. And when -- when we
3 talk about evidence, you know, the conclusory allegation of --
4 of Mr. Hedrick, Agent Hedrick, is not based on personal
5 knowledge. He doesn't say that. He says he heard from some
6 people from the receiver's staff, unidentified people, that
7 this is a peacekeeping mission. And then he goes on to say
8 that he did not seize any evidence or he didn't see any of it
9 seized. He doesn't talk about where he was, who the other
10 agents were. He admits that there was no seizure, but he
11 doesn't deny that there was a search for criminal evidence.

12 And the issue in a pretext such as this is if -- if
13 you can't prove that the receiver knew that they were there for
14 a criminal search, how could you possibly say *no*, wait a
15 second, maybe -- maybe we should get a warrant here? Or *why*
16 are you guys *here*? *Why isn't there* San Bernardino police or
17 *Upland police*? They're just as capable as the USPIS to keep
18 the peace if that's what they're truly there for.

19 | THE COURT: Let me hear from the --

20 MR. COCHELL: Yes, Your Honor. And then
21 lastly there's --

22 THE COURT: Let me hear from the Government.

23 MR. COCHELL: Okay. Yes, Your Honor.

1 THE COURT: Do it any way you want.

2 MR. SEBASTIAN: Okay. So in terms of the TRO, the
3 TRO did not give the defendant full access. According to the
4 report, the receiver went in and changed the locks and all of
5 the passwords. Defendant's entire last motion was how he
6 didn't have access to anything and that the Government had
7 destroyed material that he didn't have access to. So this is
8 completely contrary to that. 03:37

9 In terms of *AMG*, *AMG* did not invalidate the TRO or
10 the preliminary injunction. As this Court had found, the TRO
11 was in place to stop future consumer harm and current consumer
12 harm. And Judge Gee determined that after this Ninth Circuit
13 decision for *VPL* came in, that the 2018 injunction was still in
14 place. Not only that, post *AMG*, the Ninth Circuit has found in
15 cases like *Noland* that the *AMG* decision did not undermine the
16 receivership component of the original injunction order. 03:38

17 THE COURT: Yeah, I'm very comfortable and know about
18 that. The one thing that I do want to address is the
19 allegation by counsel that the receiver did not know either the
20 identity and/or the purpose of the presence of the USPIS
21 personnel at the search. 03:38

22 MR. SEBASTIAN: So I guess the first thing to start
23 with is the FTC is the plaintiff, and the FTC had contacted
24 postal in terms of coming in for reconnaissance for the
25 immediate access. Once it's filed, postal conducts 03:38

1 reconnaissance twice, then the TRO is granted, and there's an
2 entire meeting with postal, the receiver, and the FTC staff at
3 the local Upland Police Department prior to the entrance and
4 the immediate access. That's where Inspector Hedrick explains
5 how the receiver gave everyone instructions and told people
6 that he would go in first. The receiver then made entry into
7 the location. The door was opened. He literally walked in
8 first and then postal agents came in behind him.

03:39

9 This is not a search because a search only occurs if
10 there's a reasonable expectation of privacy. Cardiff has no
11 reasonable expectation of privacy because the receiver has come
12 in. And the receiver organized and worked with postal to gain
13 access because the TRO grants him exclusive custody and control
14 of this location and it also allows him to use postal -- or to
15 use law enforcement to gain access and use reasonable force, if
16 necessary, in order to gain that access. And so postal is
17 used.

03:39

18 This argument that another law enforcement agency
19 should have been used makes no sense because whether it's
20 postal or local U.S. marshals or anyone else, it's law
21 enforcement that's there to assist the receiver in gaining
22 access and control of the location.

03:40

23 I don't know what else to say in terms of the
24 receiver being duped because the last entire motion was how
25 postal and the DOJ was in a conspiracy with the receiver to go

03:40

1 against the defendant, and now the argument is that the
2 receiver has no idea what postal is doing. So that flies --
3 it's a total contradiction to the last motion.

4 And in terms of Inspector Hedrick, Hedrick --
5 Inspector Hedrick was at the location with the other five USPIS 03:40
6 agents, and he doesn't discuss the search because there is no
7 search. This entire argument about *Anderson* and the inventory
8 search is misplaced. *Anderson* pertains strictly to vehicles
9 that are being impounded post arrest and being inventoried.
10 Here the FTC docket has affidavits from the FTC investigators 03:41
11 who conducted the inventory, and it's detailed. Their
12 affidavits have full inventories of what they took, pictures
13 that they took, and their entire process. Postal's entire
14 position here was to enter the location with the receiver and
15 maintain any kind of order in case they were needed with 03:41
16 disgruntled employees or Mr. Cardiff.

17 THE COURT: Very well. Yeah, this sounds very
18 familiar, so I've heard enough.

19 MR. SEBASTIAN: Thank you.

20 THE COURT: Okay. So the order will issue shortly on 03:41
21 the motion. When is this trial set for? Is there a trial
22 date?

23 MS. MAKAREWICZ: Yes, the beginning of February,
24 February 4th.

25 THE COURT: Okay. Do both of you believe that trial 03:41

1 will go forward on that date?

2 MS. MAKAREWICZ: The Government does.

3 MR. COCHELL: I believe so, Your Honor.

4 THE COURT: So February 4th you say? How long do you
5 expect the Government's case to last? 03:42

6 MS. MAKAREWICZ: Are you holding me to my time limit?

7 THE COURT: No, no. Just an estimate.

8 MS. MAKAREWICZ: I've watched before.

9 THE COURT: No. I don't set time limits in criminal
10 cases. I can't. I cannot or else I would. 03:42

11 MS. MAKAREWICZ: There's two things. We predict
12 probably about two to three days. Although, we have recently
13 received communication from the defendant that further motions
14 are going to be filed that are also to dismiss parts of this
15 case. So we are hopeful that it's going to go in February, but
16 that seems a little contrary to what the defense has been
17 saying. 03:42

18 THE COURT: Well, I mean, there's no motion cutoff
19 date. They can make motions up until the time of -- to be
20 noticed on the date of the pretrial conference date. So
21 there's plenty of time for that. 03:42

22 MR. COCHELL: Your Honor, if I could just ask the
23 Court for a brief minute. I would request that the Court take
24 a hard look at Agent Hedrick's declaration.

25 THE COURT: Yeah, I'm not hearing any more argument 03:42

1 on that.

2 MR. COCHELL: Yes, Your Honor.

3 THE COURT: I'll take a look at whatever I think I
4 need to take a look at it.

5 But you indicate that you believe that you can be 03:43
6 ready to go to trial on February 4th; is that correct?

7 MR. COCHELL: Yes, Your Honor.

8 THE COURT: Very well. Thank you very much.

9 MR. COCHELL: Thank you.

10 (Proceedings concluded.) 03:43

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1 CERTIFICATE OF OFFICIAL REPORTER
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4 I, PHYLLIS A. PRESTON, FEDERAL OFFICIAL REALTIME
5 COURT REPORTER, IN AND FOR THE UNITED STATES DISTRICT COURT FOR
6 THE CENTRAL DISTRICT OF CALIFORNIA, DO HEREBY CERTIFY THAT
7 PURSUANT TO SECTION 753, TITLE 28, UNITED STATES CODE THAT THE
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15 DATED THIS 30TH DAY OF DECEMBER, 2024

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19

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PHYLLIS A. PRESTON, CSR No. 8701, FCRR

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